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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

New York, N.Y.

v.

15 Cr. 0643 (PKC)

JOHN GALANIS,

Defendant.

-----x

July 20, 2016  
11:35 a.m.

Before:

HON. SARAH NETBURN,

Magistrate Judge

APPEARANCES

PREET BHARARA

United States Attorney for the  
Southern District of New York

BY: AIMEE HECTOR

REBECCA MERMELSTEIN

BRIAN BLAIS

Assistant United States Attorneys

DAVID TOUGER

Attorney for Defendant

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1 THE CLERK: In the matter of United States against  
2 John Galanis.

3 Counsel, please state your name for the record.

4 MS. HECTOR: Good morning, your Honor. Aimee Hector,  
5 Rebecca Mermelstein and Brian Blais for the government.

6 MR. BLAIS: Good morning, your Honor.

7 THE COURT: Good morning.

8 MR. TOUGER: Good morning, your Honor. David Touger,  
9 T-o-u-g-e-r, for Mr. Galanis.

10 THE COURT: Good morning.

11 Good morning, Mr. Galanis.

12 THE DEFENDANT: Good morning, your Honor.

13 THE COURT: My name is Judge Netburn.

14 Sir, I have before me a Consent to Proceed Before a  
15 United States Magistrate Judge on a Felony Plea Allocution that  
16 you have signed. What this form says is that knowing you have  
17 the right to have this plea taken by a United States district  
18 judge, you are agreeing instead to have this plea taken by me,  
19 a United States magistrate judge. Is that correct?

20 THE DEFENDANT: That is correct, your Honor.

21 THE COURT: Before you signed this form, did your  
22 lawyer explain it to you?

23 THE DEFENDANT: Yes, he did.

24 THE COURT: It is accepted.

25 Is the defendant charged in all counts in the

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1 Indictment or just Counts One and Two?

2 MS. HECTOR: No, your Honor. Counts One and Two. Oh,  
3 he is charged in additional counts but he is pleading to Counts  
4 One and Two.

5 THE COURT: All right. I know he is pleading, but he  
6 is charged in all of the counts?

7 MS. HECTOR: Not all of the counts, and I could  
8 describe for your Honor -- one moment. One, Two, Three and  
9 Four, but he is pleading to One and Two.

10 THE COURT: Correct. OK. Sir, I have before me a  
11 multi-count Indictment. I understand that you are charged in  
12 Counts One, Two, Three and Four of the Indictment and that you  
13 are here in connection with Counts One and Two of the  
14 Indictment.

15 Count One charges you with conspiracy to commit  
16 securities fraud from at least 2009 through 2011, in violation  
17 of Title 18 of the United States Code, Section 371.

18 Count Two charges you with securities fraud, the  
19 substantive act of securities fraud, from the same period, 2009  
20 through 2011, in violation of Title 15 of the United States  
21 Code, Section 78j(b) and 78ff, and Title 17, Code of Federal  
22 Regulations, Section 240.10b-5, and Title 18 of the United  
23 States Code, Section 2.

24 I understand that in connection with Counts One and  
25 Two, you wish to change your plea and enter a plea of guilty as

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1 to those charges; is that correct?

2 THE DEFENDANT: I do, your Honor.

3 THE COURT: Before deciding whether to accept your  
4 guilty plea, I'm going to ask you certain questions. It's very  
5 important that you answer these questions honestly and  
6 completely. The purpose of these proceedings is to make sure  
7 that you understand your rights, to decide whether you are  
8 pleading guilty of your own free will, and to make sure that  
9 you are pleading guilty because you are guilty and not for some  
10 other reason.

11 Do you understand what I am saying?

12 THE DEFENDANT: I do, your Honor.

13 THE COURT: If at any point in time you don't  
14 understand my questions or if you want an opportunity to speak  
15 with your lawyer, please says so because it is important that  
16 you understand every question before you answer. Will you do  
17 that?

18 THE DEFENDANT: Thank you, your Honor. Yes.

19 THE COURT: Mr. Mendieta, will you swear in the  
20 defendant, please.

21 THE CLERK: Please stand and raise your right hand.

22 (The defendant was sworn)

23 THE CLERK: Thank you.

24 THE COURT: Thank you, sir.

25 THE DEFENDANT: Thank you.

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1 THE COURT: You may be seated.

2 Sir, can I have your full name?

3 THE DEFENDANT: John Peter Galanis.

4 THE COURT: And how old are you?

5 THE DEFENDANT: I'm 73 years old.

6 THE COURT: Are you a United States citizen?

7 THE DEFENDANT: Yes, I am a U.S. citizen.

8 THE COURT: How far have you gone in school, sir?

9 THE DEFENDANT: In school?

10 THE COURT: Did you complete college?

11 THE DEFENDANT: I completed college. I went to a year  
12 of law school and I also did some graduate finance work.

13 THE COURT: Are you currently or have you recently  
14 been under the care of a doctor or a psychiatrist for any  
15 reason?

16 THE DEFENDANT: I have been under the care of various  
17 doctors but for essentially physical ailments.

18 THE COURT: OK.

19 THE DEFENDANT: No psychiatric.

20 THE COURT: OK. Nothing that would affect your  
21 ability to answer my questions honestly and completely?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Have you taken any mind-altering drugs,  
24 medicine or pills or consumed any alcohol in the last 24 hours?

25 THE DEFENDANT: I have not, your Honor.

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1 THE COURT: Is your mind clear today?

2 (Pause)

3 Is your mind clear today?

4 THE DEFENDANT: It is.

5 THE COURT: Do you understand what's happening in  
6 these proceedings?

7 THE DEFENDANT: I do.

8 THE COURT: Does either counsel have any objection to  
9 the defendant's competence to enter a guilty plea at this time?

10 MS. HECTOR: No, your Honor.

11 MR. TOUGER: No, your Honor.

12 THE COURT: Sir, have you received a copy of the  
13 written version of the charges against you in this case, known  
14 as the Indictment?

15 THE DEFENDANT: I have, your Honor.

16 THE COURT: And have you read it?

17 THE DEFENDANT: I have, your Honor.

18 THE COURT: You understand what it says?

19 THE DEFENDANT: I do.

20 THE COURT: As I mentioned earlier, you have been  
21 charged, at least with respect to the counts that you intend to  
22 change your plea, in Count One for conspiracy to commit  
23 securities fraud and Count Two for the act of securities fraud.  
24 Do you understand that?

25 THE DEFENDANT: I do, your Honor.

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1 THE COURT: Do you want me to read the Indictment to  
2 you in open court?

3 THE DEFENDANT: No, your Honor. I waive the reading  
4 of the Indictment.

5 THE COURT: Thank you.

6 Have you had time to talk to your attorney about these  
7 charges and about how you wish to plead?

8 THE DEFENDANT: I have, your Honor.

9 THE COURT: Has he told you the consequences of  
10 pleading guilty?

11 (Pause)

12 Has he told you the consequences of pleading guilty?

13 THE DEFENDANT: He has.

14 THE COURT: Are you satisfied with your attorney's  
15 representation of you?

16 THE DEFENDANT: I am very satisfied.

17 THE COURT: Sir, I'm now going to explain certain  
18 constitutional rights that you have. These are rights that you  
19 will be giving up if you enter a guilty plea. Please listen  
20 carefully to what I am about to say, and if you don't  
21 understand something, please stop me and your attorney or I  
22 will explain the issue more fully.

23 Under the Constitution and the laws of the United  
24 States, you have the right to plead not guilty to the charges  
25 contained in this Indictment. Do you understand that?

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1 THE DEFENDANT: I do, your Honor.

2 THE COURT: If you pled not guilty, you would be  
3 entitled under the Constitution to a speedy and public trial by  
4 a jury of those charges. At that trial you would be presumed  
5 innocent, and the government would be required to prove you  
6 guilty beyond a reasonable doubt before you could be found  
7 guilty. That means that you would not have to prove that you  
8 are innocent, and you would not be convicted unless a jury of  
9 12 people agreed unanimously that you are guilty beyond a  
10 reasonable doubt. Do you understand that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: If you decide to go to trial, at that  
13 trial and at every stage of your case you would have the right  
14 to be represented by an attorney, and if you cannot afford one,  
15 one would be appointed to represent you at the government's  
16 expense and at no cost to you. Having retained counsel, if you  
17 run out of money, an attorney would be appointed to continue to  
18 represent you. When an attorney is appointed, that attorney is  
19 appointed to handle your case all the way through trial and not  
20 just for a guilty plea, so your decision to plead guilty here  
21 today should not depend on whether you can afford to hire an  
22 attorney. Do you understand that?

23 THE DEFENDANT: I do, your Honor.

24 THE COURT: During a trial, the witnesses for the  
25 prosecution would have to come to court and testify in your



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1 presence where you could see and hear them and your lawyer  
2 could cross-examine those witnesses, and if you wanted, your  
3 lawyer could offer evidence on your behalf. You would be able  
4 to use the Court's power to compel witnesses to come to court  
5 and testify in your defense even if they did not want to come.

6 Do you understand that?

7 THE DEFENDANT: I do, your Honor.

8 THE COURT: At a trial, you would have the right to  
9 testify in your own defense if you wanted to, but you would  
10 also have the right not to testify, and if you chose not to  
11 testify, that could not be used against you in any way. No  
12 inference or suggestion of guilt could be made from the fact  
13 that you did not testify.

14 Do you understand that?

15 THE DEFENDANT: I do, your Honor.

16 THE COURT: If you were convicted at trial, you would  
17 have the right to appeal that verdict to a higher court. Do  
18 you understand that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: And as I said before, you have the right  
21 to plead not guilty. Even right now, even as you sit here  
22 today for the purposes of entering a guilty plea, you have the  
23 right to change your mind, persist in your not guilty plea, and  
24 proceed to trial. But if you do plead guilty and I accept your  
25 plea, there will be no trial and you will give up all of the

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1 rights that I have just described. All that will remain to be  
2 done will be to impose a sentence. You and the government will  
3 have a chance to make arguments about what that sentence should  
4 be, but there will not be any further trial to determine  
5 whether you are guilty or not guilty of the charges to which  
6 you pled guilty.

7 Do you understand that?

8 THE DEFENDANT: I do, your Honor.

9 THE COURT: Do you understand that the decision as to  
10 the appropriate sentence in your case will be entirely up to  
11 the sentencing judge and that that judge will be limited only  
12 by what the law requires. This means that even if you are  
13 surprised or disappointed by your sentence, you will still be  
14 bound by your guilty plea. Do you understand that?

15 THE DEFENDANT: I do, your Honor.

16 THE COURT: Finally, if you do plead guilty, you are  
17 also giving up your right not to incriminate yourself, and I  
18 will ask you questions about what you did in order to satisfy  
19 myself that you are actually guilty. By pleading guilty you  
20 will be admitting the factual as well as legal guilt. Do you  
21 understand that?

22 THE DEFENDANT: I do.

23 THE COURT: You said earlier that you've read the  
24 Indictment containing the charges against you and you  
25 understand that you have been charged with conspiracy to commit

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1 securities fraud as well as securities fraud. I am now going  
2 to ask the Assistant United States Attorney to state the  
3 elements of those charges. The elements are the things that  
4 the government would have to prove beyond a reasonable doubt  
5 were the case to proceed to trial.

6 Please.

7 MS. HECTOR: Thank you.

8 With respect to Count One, the government must prove  
9 beyond a reasonable doubt the following element: First, the  
10 existence of the conspiracy, that is, the existence of an  
11 agreement or understanding to commit the unlawful object of the  
12 charged conspiracy, which in this case is securities fraud;  
13 second, that the defendant willfully and knowingly became a  
14 member of the conspiracy with the intent to further its illegal  
15 purposes; and, third, that any one of the conspirator knowingly  
16 committed at least one overt act in the Southern District of  
17 New York in furtherance of the conspiracy during the life of  
18 the conspiracy.

19 With respect to Count Two, the substantive securities  
20 fraud, the government must prove each of the following elements  
21 beyond a reasonable doubt: First, that in connection with the  
22 purchase or sale of stock or shares in a company, the defendant  
23 did any one of or more of the following: One, employed a  
24 device, scheme or artifice to defraud; two, made an untrue  
25 statement of a material fact, or omitted to state a material

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1 fact which made what was said under the circumstances  
2 misleading; or, three, engaged in any act, practice, or course  
3 of business that operated or would operate as a fraud or deceit  
4 upon a purchaser or seller; second, that the defendant acted  
5 knowingly, willfully, and with the intent to defraud; and,  
6 third, that the defendant used or caused to be used any means  
7 or instruments of transportation or communication in interstate  
8 commerce or the use of the mails in furtherance of the  
9 fraudulent conduct.

10 THE COURT: Thank you.

11 Sir, I am now going to tell you the maximum possible  
12 penalties for these crimes. The maximum means the most that  
13 could possibly be imposed. It does not necessarily mean this  
14 is what you will receive, but you have to understand that by  
15 pleading guilty here today you are exposing yourself to any  
16 combination of punishments up to the maximum that I am about to  
17 describe.

18 Do you understand that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: With respect to Count One, it carries a  
21 maximum term of imprisonment of five years and a maximum term  
22 of supervised release of three years. With respect to Count  
23 Two, it carries a maximum term of imprisonment of 20 years  
24 followed by a maximum term of supervised release of three  
25 years. This means that if those two charges were to run

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1 consecutively, you would face a potential prison term of 25  
2 years.

3 Let me advise you about supervised release.

4 Supervised release means that if you are sentenced to prison  
5 and thereafter released from prison, you may be subject to  
6 supervision by the Probation Department. You should understand  
7 that if you are placed on supervised release and thereafter  
8 violate any of the terms or conditions of that release, the  
9 district judge that imposed your sentence may revoke the term  
10 of supervised release that had been previously imposed and may  
11 return you to prison without giving you any credit for the time  
12 spent on post-release supervision.

13 Do you understand that?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: Second, in addition to these restrictions  
16 on your liberty, the maximum possible punishment also includes  
17 certain financial penalties.

18 With respect to Count One, the maximum allowable fine  
19 is the greatest of \$250,000 or twice what was made by the  
20 criminal activity or twice what was lost by someone other than  
21 yourself because of the criminal activity. In connection with  
22 Count Two, the maximum allowable fine is the greatest of  
23 \$5 million or twice what was made by the criminal activity or  
24 twice what someone other than yourself lost because of the  
25 criminal activity. In addition, there is a mandatory minimum

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1 fine, or special assessment, that must be imposed for each  
2 count of conviction in the amount of \$100, which means that for  
3 both counts there will be a \$200 special assessment, or  
4 mandatory fine, associated with the convictions.

5 Sir, has anyone threatened you or coerced you in any  
6 way to get you to plead guilty?

7 THE DEFENDANT: No, they have not, your Honor.

8 THE COURT: Has anyone other than the prosecution  
9 promised you or offered you anything to get you to plead  
10 guilty?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: I understand that there is a plea  
13 agreement between you and the government in this case, is that  
14 correct?

15 THE DEFENDANT: That is correct, your Honor.

16 THE COURT: Did you have an opportunity to read this  
17 agreement before you signed it?

18 THE DEFENDANT: I did read it, yes, your Honor.

19 THE COURT: You understand its terms?

20 THE DEFENDANT: I do.

21 THE COURT: Did you have an opportunity to speak about  
22 this agreement with your lawyer before signing it?

23 THE DEFENDANT: I did, your Honor.

24 THE COURT: It appears that you and the government  
25 have agreed about the appropriate calculation of your sentence

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1 under the Sentencing Guidelines; is that correct?

2 THE DEFENDANT: That is correct, your Honor.

3 THE COURT: And in this agreement you have stipulated  
4 to a guidelines' range of between 97 to 121 months'  
5 imprisonment; is that correct?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: In addition, you have agreed that the  
8 appropriate fine range in this case is between \$30,000 and  
9 \$300,000; is that correct?

10 THE DEFENDANT: It is, your Honor.

11 THE COURT: You understand that in this agreement  
12 neither you nor the government is allowed to argue to the  
13 sentencing judge for a calculation that is different than the  
14 one in this agreement; do you understand that?

15 THE DEFENDANT: Yes, I do, your Honor.

16 THE COURT: However, the agreement allows for either  
17 party to seek a sentence that is outside of this stipulated  
18 guidelines' range based on the sentencing factors which are  
19 found in our sentencing statute, which is located at Title 18  
20 of the United States Code, Section 3553(a). Do you understand  
21 that?

22 THE DEFENDANT: I do, your Honor.

23 THE COURT: In this agreement you admitted to the  
24 forfeiture allegation with respect to Counts One and Two in the  
25 Indictment and agreed to forfeit a sum of money to the United

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1 States in the sum equal to \$19,038,650.53. Do you understand  
2 that?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: And you have agreed to the entry of the  
5 Consent Order of Forfeiture which was attached to the plea  
6 agreement. Do you understand that?

7 THE DEFENDANT: Yes, I do, your Honor.

8 THE COURT: And you further agree that that order  
9 shall be final once it is ordered by the Court; do you  
10 understand that?

11 THE DEFENDANT: Yes, I do, your Honor.

12 THE COURT: In addition, you have agreed to make  
13 restitution in an amount ordered by the Court; do you  
14 understand that?

15 THE DEFENDANT: I do, your Honor.

16 THE COURT: In this agreement you have also limited in  
17 certain respects your ability to appeal from your conviction  
18 and sentence. Are you aware of that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: OK. Specifically, you've agreed that you  
21 will not file a direct appeal or bring a collateral challenge,  
22 often called a habeas motion, or seek a sentence modification  
23 so long as your sentence is within or below the stipulated  
24 guidelines' range of 97 to 121 months' imprisonment. Do you  
25 understand that?



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1 THE DEFENDANT: I do, your Honor.

2 THE COURT: In addition, you have agreed that you will  
3 not appeal any term of supervised release that is less than or  
4 equal to the statutory maximum of three years and that you will  
5 not appeal any fine amount that is less than or equal to  
6 \$300,000. Do you understand that?

7 THE DEFENDANT: I do, your Honor.

8 THE COURT: You further agree that you will not appeal  
9 the forfeiture amount so long as it is less than or equal to  
10 \$19,038,650.53. Do you understand all of that?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: The most important thing for you to  
13 understand is that this plea agreement is not binding on the  
14 sentencing judge and that judge may reject the recommendations  
15 or the calculations that are set forth in this agreement and  
16 may impose a more severe sentence without allowing you to  
17 withdraw your guilty plea. Do you understand that?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: The sentencing judge is required to make  
20 his own independent calculation under the Sentencing Guidelines  
21 and then to impose a sentence based on what he believes is the  
22 appropriate sentence for you even if that sentence is different  
23 from the one in this agreement. Do you understand that?

24 THE DEFENDANT: I do.

25 THE COURT: In determining that sentence, the Court

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1 will consider, in addition to the guidelines and possible  
2 departures from those guidelines, all of the factors that are  
3 set forth in the sentencing statute that I mentioned earlier,  
4 which, again, is found at Title 18 of the United States Code,  
5 Section 3553(a). Do you understand that?

6 THE DEFENDANT: I do, your Honor.

7 THE COURT: In addition, the Court will consider the  
8 presentence report, which is prepared by the Probation  
9 Department in advance of your sentencing. Before you are  
10 sentenced, you and the government will have an opportunity to  
11 challenge the facts that are reported by the Probation  
12 Department. Do you understand that?

13 THE DEFENDANT: I do, your Honor.

14 THE COURT: Sir, now that you have been advised of the  
15 charges against you, the possible penalties that you face, and  
16 the rights that you are giving up, is it still your intention  
17 to plead guilty to Counts One and Two of the Indictment?

18 THE DEFENDANT: It is, your Honor.

19 THE COURT: So with respect --

20 MS. HECTOR: Your Honor, I'm sorry. May I just  
21 interrupt for one second and just ask Mr. Touger something?

22 (Pause)

23 Your Honor, if I could just -- for the record, I just  
24 noticed that the fine range is actually incorrect because it  
25 should be 30,000 to 5 million instead of 300,000, because Count

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1 Two allows for a fine up to \$5 million. I just alerted  
2 Mr. Touger to that. It appears on page 3.

3 THE COURT: Right. I noticed.

4 MS. HECTOR: And also on page 5 in the appeal waiver.  
5 I apologize for that. We have just initialed that change.

6 THE COURT: I have the original here.

7 MS. HECTOR: And we should do so on the original, and  
8 I just wanted to sort of clarify for that and allow Mr. Touger  
9 to talk to his client before his client enters a plea pursuant  
10 to the plea agreement.

11 MR. TOUGER: We just got this, your Honor, and we  
12 realized the error.

13 THE COURT: OK.

14 MR. TOUGER: That won't change our --

15 THE COURT: Do you need any more time?

16 MR. TOUGER: No.

17 (Pause)

18 We are ready to proceed, your Honor.

19 THE COURT: Great.

20 Mr. Galanis, let me just make sure that you understand  
21 what just happened.

22 In the plea agreement it indicated that the possible  
23 maximum penalty with respect to Count Two was potentially \$5  
24 million, and I told you that when I was telling you about the  
25 possible maximum penalties you could face. The plea agreement

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1 incorrectly stated that the stipulated guidelines' range for  
2 the fine was only 30,000 to 300,000 when in fact it should have  
3 been 30,000 to \$5 million.

4 Do you understand that?

5 THE DEFENDANT: I do, your Honor.

6 THE COURT: OK. And so because that's the stipulated  
7 fine range, you have agreed to forfeit any ability to appeal  
8 from a fine that is less than or equal to \$5 million; do you  
9 understand that?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Now that we've clarified that and you have  
12 heard about all of the penalties that you face, the charges  
13 against you, and the rights you are giving up, let me confirm  
14 again it is your intention to plead guilty to Counts One and  
15 Two of the Indictment?

16 THE DEFENDANT: It is, your Honor.

17 THE COURT: OK. With respect to Count One of the  
18 Indictment, how do you plead?

19 THE DEFENDANT: I plead guilty, your Honor.

20 THE COURT: And with respect to Count Two of the  
21 Indictment, how do you plead?

22 THE DEFENDANT: I plead guilty, your Honor.

23 THE COURT: OK. Can you tell me in your own words  
24 what you did to make you believe you are guilty of those  
25 charges?

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1 THE DEFENDANT: Your Honor, would you mind, with your  
2 leave, I not stand up? It is a little difficult for me to  
3 stand.

4 THE COURT: That is quite all right. Absolutely.  
5 Thank you.

6 THE DEFENDANT: I, John Galanis, along with others,  
7 conspired to commit securities fraud in or about 2009 to in or  
8 about 2011 in that I and others openly managed brokerage  
9 accounts of an individual and effected the sale of Gerova stock  
10 and received and concealed proceeds derived therefrom knowing  
11 that this activity was designed to conceal from the investing  
12 public the true ownership and control of that Gerova stock.

13 I, along with others, willingly and knowingly,  
14 directly and indirectly, by means and use of instrumentalities  
15 of interstate commerce and the mails and other facilities of  
16 the National Securities Exchange, would and did use and employ  
17 manipulative and deceptive devices and contrivances in  
18 connection with the purchase and sale of securities, in  
19 violation of Title 17, Code of Federal Regulations, Section  
20 240.10b-5 by employing devices, schemes, and artifices to  
21 defraud and making untrue statements of material fact and  
22 omitting to state material facts necessary in order to make the  
23 statements made in light of the circumstances under which they  
24 were made not misleading, and I and others engaged in acts,  
25 practices, and courses of business which operated and would

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1 have operated as a fraud and deceit upon persons.

2 THE COURT: Thank you, sir. I appreciate that you  
3 just read something that reads like a lawyer's statement. So I  
4 just want to confirm that you understand what you just read?

5 THE DEFENDANT: I do, your Honor.

6 THE COURT: And I appreciate that those were probably  
7 your lawyer's words. Do you agree and adopt everything that  
8 you just read?

9 THE DEFENDANT: I do. I understand the meaning of  
10 that language, your Honor, and that's why I read it, because it  
11 fully and accurately describes my activity.

12 THE COURT: OK. Anything else that you would like to  
13 add in your own words?

14 THE DEFENDANT: Not at this time, your Honor. No.

15 THE COURT: Did you know that what you were doing was  
16 illegal?

17 THE DEFENDANT: I'm sorry, your Honor.

18 THE COURT: Did you know that what you were doing at  
19 the time was illegal?

20 THE DEFENDANT: Yes, I did, your Honor.

21 THE COURT: Any other questions you would like me to  
22 ask, Ms. Hector?

23 MS. HECTOR: No, your Honor.

24 I would just proffer that at certain times relevant to  
25 during the course of this conspiracy, the trades of the Gerova

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1 shares were executed on exchanges located in the Southern  
2 District of New York and, in addition, that this defendant  
3 caused at least some of the proceeds from the sale of those  
4 shares to be wired to a bank account located in New York, New  
5 York.

6 THE COURT: Does the government represent that it has  
7 sufficient evidence to prove the defendant guilty beyond a  
8 reasonable doubt at trial?

9 MS. HECTOR: Yes, your Honor, and the government would  
10 do so through witness testimony, documentary evidence,  
11 including emails, correspondence, business records, bank  
12 records and trading records.

13 THE COURT: Do you believe you have a sufficient  
14 allocution for the guilty pleas?

15 MS. HECTOR: Yes, we do, your Honor.

16 THE COURT: Thank you.

17 Sir, on the basis of your responses to my questions  
18 and my observation of your demeanor, I find that you are  
19 competent to enter a guilty plea. I'm satisfied that you  
20 understand your rights, including your right to go to trial,  
21 you are aware of the consequences of your plea, including the  
22 sentence that may be imposed, that you are voluntarily pleading  
23 guilty, and that you admitted that you are guilty as charged in  
24 Counts One and Two of the Indictment. For these reasons, I  
25 will recommend that District Judge Castel accept your plea of

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1 guilty as to Counts One and Two of the Indictment.

2 And I assume the government will order a copy of the  
3 transcript so that Judge Castel may act on my recommendation?

4 MS. HECTOR: Yes, your Honor, and I will also just  
5 note for the record the defendant has obviously agreed to the  
6 forfeiture allegations. We have obtained the defendant's  
7 signature on a Consent Preliminary Order of Forfeiture  
8 Judgment, which we will provide to Judge Castel for his  
9 signature in connection with -- in addition to sending him the  
10 transcript of these proceedings.

11 THE COURT: Has he set a sentencing date yet?

12 MS. HECTOR: Yes, your Honor, he has. December 2nd at  
13 11a.m.

14 THE COURT: OK. And I will direct that a presentence  
15 report be prepared.

16 Can you deliver the case summary to Probation in the  
17 next 14 days?

18 MS. HECTOR: Yes, your Honor.

19 THE COURT: Counsel, can you and your client be  
20 available in the next 14 days to be interviewed by Probation?

21 MR. TOUGER: Yes, we will set it up with Probation,  
22 your Honor.

23 THE COURT: Thank you.

24 Any objection to continuing the present bail?

25 MS. HECTOR: No, your Honor.



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1           THE COURT: Sir, let me remind you that all of the  
2 conditions on which you are released up to now continue to  
3 apply and a violation of those conditions can have very serious  
4 consequences, including revocation of bail and prosecution for  
5 bail-jumping. Do you understand that?

6           THE DEFENDANT: Yes, your Honor.

7           THE COURT: Also, if you commit any crime while you  
8 are released on bail, that may lead to a more severe punishment  
9 than you would get for committing the same crime at any other  
10 time. Of course, if you commit a crime or violate the plea  
11 agreement with the government in any way, you will be subject  
12 to revocation by the government of your plea agreement, with  
13 all of the consequences that are described in the agreement.

14           anything further from either side?

15           MS. HECTOR: No, your Honor.

16           MR. TOUGER: No, your Honor.

17           THE COURT: Thank you.

18           MS. HECTOR: Thank you.

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